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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 JEROME CEASAR ALVERTO,

11 Petitioner,

12 v.

13 MIKE OBENLAND,

14 Respondent.

CASE NO. 3:19-CV-05212-RJB-DWC

ORDER

15 The District Court has referred this 28 U.S.C. § 2254 action to United States Magistrate
16 Judge David W. Christel. Currently before the Court are Petitioner Jerome Ceasar Alverto's
17 Motion to Stay Proceedings, Motion to Extend Time, and Motion to Extend Time to File Reply
18 to Respondent's Response. Dkt. 24, 28, 29.

19 **I. Motion to Extend Time to Reply (Dkt. 29)**

20 On August 16, 2019, Petitioner filed the Motion to Extend Time to Reply requesting an
21 extension of time to file a reply to Respondent's Response to Petitioner's Motion to Stay.
22 Petitioner attached the proposed reply to the Motion to Extend Time to Reply. *See* Dkt. 29-2.
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1 On August 1, 2019, Petitioner filed a Motion to Stay. Dkt. 24. The Motion to Stay was
2 noted for the Court's consideration on August 16, 2019, which is the same date Petitioner's
3 optional reply was due. *See* Dkt. 24; Local Civil Rule 7(d). As the Motion to Extend Time to
4 Reply, with the attached proposed reply, was filed on August 16, 2019, the proposed reply was
5 timely filed. Therefore, Petitioner's request for an extension of time is moot.

6 Accordingly, Petitioner's Motion to Extend Time to Reply (Dkt. 29) is denied as moot.
7 The Court directs the Clerk to docket the proposed reply (Dkt. 29-2) as Petitioner's Reply to
8 Respondent's Response to Motions to Stay and Fed.R.Civ.P. 60 Relief (Dkt. 25).

9 **II. Motion to Stay (Dkt. 24)**

10 Petitioner filed the Motion to Stay on August 1, 2019, wherein he requests the Court stay
11 this case while his Motion for Relief from Judgment or Order remains pending in his previously
12 filed case, *Alverto v. Obenland*, 3:13-cv-05490-RJB-DWC (W.D. Wash.) ("first case").
13 Respondent filed a Response stating the Motion for Relief from Judgment or Order is frivolous
14 and should be denied; thus, a stay is not warranted in this case. Dkt. 25. The Court has entered a
15 Report and Recommendation in the first case recommending the Motion for Relief from
16 Judgment be denied. *See Alverto*, 3:13-cv-05490 at Dkt. 88. As the Court has recommended the
17 Motion for Relief for Judgment be denied, the Court finds a stay of this case is not warranted at
18 this time. However, the Court finds an extension of time to respond to the Answer is appropriate.
19 *See* Section III, *infra*. For these reasons, the Motion to Stay (Dkt. 24) is denied without
20 prejudice.

21 **III. Motion to Extend Time (Dkt. 28)**

22 On August 14, 2019, Petitioner filed the Motion to Extend Time. Dkt. 28. Petitioner
23 requests a 30-day extension to respond to Respondent's Answer because he has a pending
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1 Motion to Stay in this case and a pending Motion for Relief from Judgment or Order in the first
2 case. *Id.* The Court has denied the Motion to Stay and has recommended the Motion for Relief
3 from Judgment or Order be denied. However, as the Report and Recommendation is still pending
4 in the first case, the Court finds a 60-day extension of time to file a response to Respondent's
5 Answer is warranted in this case.

6 Therefore, Petitioner's Motion to Extend Time (Dkt. 28) is granted as follows:

- 7 • Petitioner's response to Respondent's Answer is due on or before November 12,
8 2019.
- 9 • Respondent's reply to Petitioner's response is due on or before November 15,
10 2019.

11 **IV. Conclusion**

12 After reviewing the pending motions and the relevant record, the Motion to Extend Time
13 to File Reply (Dkt. 29) is denied as moot, the Motion to Stay (Dkt. 24) is denied without
14 prejudice, and the Motion to Extend Time (Dkt. 28) is granted.

15 The Clerk of Court is directed to docket the proposed reply (Dkt. 29-2) as Petitioner's
16 Reply to Respondent's Response to Motions to Stay and Fed.R.Civ.P. 60 Relief (Dkt. 25). The
17 Clerk of Court is also directed to re-note Respondent's Answer for consideration on November
18 15, 2019.

19 Dated this 11th day of September, 2019.

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22 David W. Christel
23 United States Magistrate Judge
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